



Steven W. Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Veterinary Division

R. Douglas Meckes, DVM
State Veterinarian

August 30, 2016

Englishe Miller
M & M Furever Furbabies
1041 Cypress Church Road
Cameron, NC 28326

NOTICE OF CIVIL PENALTY

RE: CIVIL PENALTY ASSESSMENT FOR VIOLATION OF N. C. GENERAL STATUTE §19A-26

AWS-CP-2016-9

Facility: M & M Furever Furbabies

Dear Ms. Miller:

Pursuant to N.C. Gen. Stat. § 19A-40, I am issuing this notice to you that M & M Furever Furbabies is assessed a civil penalty of \$1,000.00 as provided in the enclosed Notice of Violation and Order.

With regard to the civil penalty, within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing with the N. C. Office of Administrative Hearings to appeal the penalty assessment.

Pursuant to N.C. Gen. Stat. § 150B-22, either party to a dispute may initiate informal settlement negotiations at any time. To negotiate a settlement of this assessment, you may present your offer to me. I can be contacted by telephone at (919) 707-3280. Settlement offers do not extend the 60-day deadline for payment or filing of a contested case petition.

PAYMENT

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Dr. Patricia Norris
Director, Animal Welfare Section
1030 Mail Service Center
Raleigh, NC 27699-1030

APPEAL

If you file a contested case petition, it must be in writing and in the form prescribed by N.C. Gen. Stat. § 150B-23. The petition must be accompanied by a filing fee of twenty dollars (\$20.00) payable to the N.C. Office of Administrative Hearings. Should you have any questions about what the fee would be for your case, please contact the OAH Clerk's Office at 919-431-3000. Payment can be made by cash, money order, certified check or check drawn on an attorney's trust account. Make checks payable to: Office of Administrative Hearings. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Any questions about filing a petition may be directed to the Clerk of OAH by telephone at 919-431-3000. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Registered Agent and General Counsel
1001 Mail Service Center
Raleigh, NC 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Patricia Norris', with a stylized flourish at the end.

Patricia Norris, DVM
Director, Animal Welfare Section

Attachment: Notice of Violations, Assessment of Civil Penalty

cc: R. Douglas Meckes, DVM, NCDA&CS
Ms. Tina Hlabse, General Counsel, NCDA&CS
Mr. Joe Reardon, Assistant Commissioner, NCDA&CS
Christopher McLennan, Assistant Attorney General

STATE OF NORTH CAROLINA
COUNTY OF WAKE

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES,
VETERINARY DIVISION

IN THE MATTER OF
M & M FUREVER FURBABIES

) NOTICE OF VIOLATION,
) ASSESSMENT OF CIVIL
) PENALTY
)
) For Violation Of:
) N.C. General Statute §19A-26
)

Acting pursuant to N.C. Gen. Stat. §19A-40, Dr. Patricia Norris, Director of the Animal Welfare Section ("AWS"), Veterinary Division, North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

FINDINGS OF FACT

1. On May 27, 2016, AWS issued a Notice of Warning to M & M Furever Furbabies (the "shelter") for violation of N. C. General Statute §19A-26.
2. The May 27, 2016 Notice of Warning provided written notice that the shelter was required to submit an application for registration as an animal shelter. Furthermore, the Notice directed the shelter to immediately cease operation as a shelter until such registration had been issued by AWS.
3. On August 25, 2016, AWS Animal Health Technician Elizabeth Garner ("Inspector Garner") inspected the shelter located 1041 Cypress Church Rd. Cameron, NC. The shelter was housing 14 animals identified as shelter animals on the premises. The shelter also identified 15 additional animals located in various foster homes.

CONCLUSIONS

As a result of this investigation, AWS finds that M & M Furever Furbabies was operating as an animal shelter on August 25, 2016 after receiving a Notice of Warning on May 27, 2016 directing the shelter to immediately cease operation as a shelter until such time as the shelter had obtained an animal shelter registration from AWS. Therefore, AWS finds that the shelter, either by act or omission, violated N. C. General Statute §19A-26. AWS hereby notifies the owner of the shelter that any future violation of this General Statute may result in the assessment of additional civil penalties pursuant to N. C. General Statute §19A-40.

(See Appendix for text of cited General Statutes)

CIVIL PENALTIES

As required by N.C. General Statute § 19A-40 in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violations listed above.

Accordingly, M & M Furever Furbabies is assessed a civil penalty of \$1,000.00 for violation of N. C. General Statute §19A-26.

\$1,000.00 TOTAL AMOUNT ASSESSED

August 30, 2016

Date



Dr. Patricia Norris
Director, Animal Welfare Section
North Carolina Department of
Agriculture & Consumer Services

Appendix

Relevant Statutes and Regulations

§ 19A-26. Certificate of registration required for animal shelter.

No person shall operate an animal shelter unless a certificate of registration for such animal shelter shall have been granted by the Director. Application for such certificate shall be made in the manner provided by the Director. No fee shall be required for such application or certificate. Certificates of registration shall be valid for a period of one year or until suspended or revoked and may be renewed for like periods upon application in the manner provided. (1977, 2nd Sess., c. 1217, s. 7; 1987, c. 827, s. 64.)

§19A-40. Civil Penalties.

The Director may assess a civil penalty of not more than five thousand dollars (\$5,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Director shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995, c. 516, s.6: 1998-215,s.3.)